

REMARKS

Applicants gratefully acknowledge the Examiner's statement that the prior rejections have been withdrawn. In the Office Action mailed February 16, 2007, the Examiner now has rejected claims 1-4 and 7-23 under 35 USC 103 as being obvious over U.S. Patent No. 6,217,563 to Van Gompel in view of U.S. Patent No. 6,720,471 to Arndt, claim 5 as being obvious over Van Gompel in view of Arndt and U.S. Patent No. 5,836,930 to Lantz, and claim 6 as being obvious over Van Gompel in view of Arndt and U.S. Pub. No. US 2005/0027267 to Van Dyke. Applicants respectfully submit that the rejections should be withdrawn for at least the following reasons.

Claims 1-5, 7-10 and 17-23:

Independent claim 1 recites that "at least 70% of said second length [defined between first and second longitudinally spaced boundaries] is positioned between said centerline and said terminal front waist edge [of said body chassis], and wherein there is *no absorbent material disposed longitudinally outside of said retention region defined between said first and second boundaries.*" Claims 17 and 20 recite similar language. In addition, claims 1, 17 and 20 each recite that the "second length is *less than or equal to 50 % of said first length*" defined between the terminal front and back waist edges of the body chassis. Applicants submit that the Examiner has failed to make out a *prima facie* case of obviousness for at least two reasons – (1) there is no reason that one of ordinary skill in the art would modify Van Gompel in view of Arndt as asserted and (2) even if modified, not all of the recitations of the claims are disclosed (see MPEP 2143).

At the outset, Applicants note that the Examiner has acknowledged that "Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length, wherein at least 70% of said second length is positioned between said centerline and said terminal front waist edge" (Office Action at 3). Instead, the

Examiner refers to Arndt, which purportedly teaches a “crotch length that is 50% of the total core length,” with the “crotch region taught by Arndt [being] analogous to the retention portion 48” (Office Action at 3). Applicants respectfully disagree with this characterization of Arndt.

Specifically, the “crotch region” of Arndt (Col. 9, lines 9-36) is *not* analogous to the retention portion recited in Applicants claims. Rather, Arndt defines the “crotch region” as the area “surrounding the crotch point,”¹ which extends “over a length of 50% of the *total core length* (which in turn is defined as the distance between the front and rear waist edges [83] of the core [28] . . .)” (Col. 9, lines 9-15; Col. 7, lines 60-65; FIG. 1) (emphasis added). In essence, the “crotch region” of Arndt is merely a portion of the absorbent core, which is made up of absorbent material, with the “absorbent core also compris[ing] at least one but mostly two waist region(s), extending toward the front and/or rear of the absorbent core outside the crotch region” (Arndt at Col. 10, lines 5-8).

Arndt discloses that the *total core length*, or the length of the *absorbent* material, is *twice* that of the crotch region (Arndt at Col. 9, lines 9-15). Indeed, at one point, Arndt even discloses that the “crotch region,” rather than the overall absorbent core length, covers 50% of the total article length, thereby implying that the overall absorbent length approaches 100% of the article length! In contrast, nowhere does Arndt disclose, suggest or otherwise provide any reason for providing an *overall* core length, as opposed to the length of the crotch region, that is less than or equal to 50% of the total length of the garment between the terminal front and back waist edges.

Moreover, claims 1, 17 and 20 expressly recite that “there is *no absorbent material* disposed longitudinally outside of said retention region defined between said first and second boundaries.” Accordingly, the Examiner’s reference only to the “crotch region” of Arndt is misplaced, since the absorbent core 28 of Arndt, which includes “absorbent material,” extends *twice* the length of the “crotch region.”

¹ Arndt defines the “crotch point” as the point where the article has its smallest width, or the where the distance between the legs is the narrowest (Col. 8, lines 54-58).

Indeed, even a cursory view of the Figures in Arndt show the length of the core 28 extending over 80% of the total length of the article, with the remaining 20% being occupied by elasticized waist bands 35, 76, 77 (Arndt at FIG. 1, Col. 7, line 64 to Col. 8, line 12 (“the elastic waist feature 34 comprises that portion of the diaper at least extending from the waist edge 83 of the absorbent core 28 to the end edge 64 of the diaper 20”)). If anything, Arndt teaches further away from the invention than does Van Gompel, and certainly does not supply any of the deficiencies of Van Gompel.

Applicants note, however, that the Examiner already has stated that “Applicant’s arguments . . . filed November 21, 2006, with respect to the rejection(s) of claim(s) 1-23 under 35 U.S.C. 103 [in view of Van Gompel] have been fully considered and are *persuasive*” (Office Action at 2) (emphasis added). For at least the same reasons, the outstanding rejections over Van Gompel and Arndt should be withdrawn. Moreover, even if combined, Van Gompel and Arndt fail to disclose or suggest all of the recitations of claims 1, 17 and 20, and the Examiner’s rejections should be withdrawn for this additional reason.

Finally, Applicants further note that the Examiner has asserted that “from Arndt’s teaching that the crotch region should not extend much beyond the discharge region of the wearer, it would be obvious to one of ordinary skill in the art to modify the location of the retention portion so as to not extend much beyond the discharge location of a wearer as taught by Arndt, which in the case of a male wearer, would result in at least 70% of the length of the retention portion being located between the lateral centerline and the terminal front waist edge” (Office Action at 3). Applicants respectfully submit that the stated conclusion again is based on the “crotch region” of Arndt being equated with the overall length of the core 28, which is erroneous as explained above. Moreover, Arndt never discloses shifting the overall position of the absorbent core, but rather only shifting the crotch region portion of the core (Arndt at Col. 9, lines 37-62 (e.g., if the crotch point is shifted forward 50 mm, the crotch region is shifted forward 25mm toward the front core edge, with the front core edge remaining stationary)). Indeed, as explained above, there simply is no room to shift

the overall absorbent core 28 forward (Arndt at FIG. 1; Col. 7, line 65 to Col. 8, line 5). Accordingly, Applicants respectfully submit that the Examiner's rejections should be withdrawn for this additional reason.

Claim 6:

The Examiner rejected claim 6 under 35 USC 102(e)/103 as being obvious over Van Gompel in view of Van Dyke. In the prior Amendment filed November 21, 2006, Applicants rewrote claim 6 in independent form and removed Van Dyke as a reference pursuant to 35 USC 103(c). It does not appear that the Examiner considered Applicants' prior statement concerning common ownership.

Accordingly, Applicants, through their undersigned attorney, do hereby again state that the present application (S/N 10/693,555) and Van Dyke (US 2005/0027267) were, at the time of the invention of the '555 application was made, owned by Kimberly-Clark Worldwide, Inc. Accordingly, and pursuant to 35 USC 103(c), Applicants respectfully request that the Examiner withdrawn the rejection of claim 6 and pass claim 6 to allowance on the next office Action.

Claim 11:

Claim 11² recites a "retention member having first and second longitudinally spaced ends and a second length defined between said first and second ends, wherein at least 70% of said second length is positioned between said centerline and said terminal waist edge of said front body panel." As set forth above with respect to claims 1, 17 and 20, Van Gompel and Arndt fail to disclose, suggest or provide any reason for such recitations. Accordingly, Applicants respectfully submit that claims 11-16 should be passed to allowance on the next Office Action.

² In the prior Amendment filed November 21, 2006 (see page 9), Applicants may have inadvertently implied that claim 11 recited a defined second length that was less than or equal to 50% of a first length. Applicants note for the Examiner's attention that claim 11 is not so limited. Rather, that limitation is introduced in dependent claim 12, also referred to in the Amendment at page 9.

Conclusion:

If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,



Dated: May 14, 2007

By:

Andrew D. Stover
Reg. No. 38,629
Attorney for Applicants

BRINKS HOFER GILSON & LIONE LTD.
Post Office Box 10395
Chicago, Illinois 60610
(312) 321-4200